

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.5640 OF 2004

Smt.Clare Paul & Anr. .. Petitioners

versus

M/s.Prasad Sales Corporation .. Respondent

...

Mr.V.V. Walawalkar for the petitioner.

CORAM : D.G. KARNIK, J

DATED : 27th August 2004

P.C:-

1. Heard Shri Walawalkar for the petitioner.
2. The petitioner claims possession of the suit premises on the ground of reasonable and bonafide requirement. In paragraph no.5 of the examination in chief, the petitioner states that he requires additional space of 150 sq.ft to install computer to accommodate the staff. This requirement of the petitioner was of only 150 sq.ft. During the pendency of the suit the petitioner acquired possession of

about 160 sq.ft. from another tenant M/s.Ishwar Corporation. In the light of that, the appellate Court has held as follows:-

"However, the defendants have brought on record the facts that during the pendency of the suit, plaintiffs landlords have obtained possession of premises from Ishwar Corporation and by bring such fact on record, they pointed out that after filing of the suit, plaintiffs landlords have obtained possession of the premises and as such need of the plaintiffs has been satisfied and in such case, it was for the plaintiffs landlords to come with a specific case that though they have obtained possession of the premises from Ishwar Corporation, their need still exists or continues."

3. No evidence was adduced by the petitioner to show that the need subsists after the acquisition of the premises by M/s.Ishwar Corporation. The fact of acquisition of additional premises of Ishwar Corporation was suppressed during the examination in chief and was brought on record by the respondents only in the cross examination.

4. There is no merit in the petition. Petition rejected.

